

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HENDERSON BUTLER,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

2004 MAY -3 A 10:34

U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No. 04-10761-RWZ

UNITED STATES OF AMERICA'S MOTION TO DISMISS

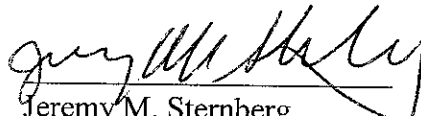
The United States of America, the proper party in the case, hereby moves to dismiss this action pursuant to Fed. R. Civ. P. 12(b)(1). As set forth more fully in the Memorandum of Law submitted herewith, this court lacks jurisdiction over this action due to plaintiff's failure to adhere to the statute of limitations requirements of 28 U.S.C. §2401(b). Specifically, plaintiff's failure to file suit against the United States in this Court within six (6) months of the administrative denial of his claim bars this suit.

WHEREFORE, the United States respectfully requests that this Court allow its motion to dismiss.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

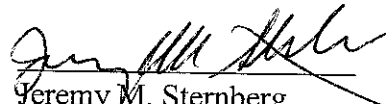
By:


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Dated: 5-3-04

Local Rule 7.1 Certification

Undersigned counsel hereby certifies that he conferred with counsel for plaintiff in an unsuccessful effort to narrow or resolve the issues raised by this motion, including providing counsel for plaintiff with a draft (on 4/22/04) of the Memorandum of Law filed herewith.


Jeremy M. Sternberg
Assistant U.S. Attorney

Certificate of Service
I hereby certify that a true copy of
the above document was served upon
(each party appearing pro se and) the
attorney of record for each. Other
party by mail/hand on _____

5-3-04 
DATE Assistant U.S. Attorney